(5)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR(CHHATTISGARH)

WRIT PETITION NO. 06 OF 2001

UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

PETITIONER :1. Kehar Singh S/o Hakam Singh aged 50 years r/o Dongargarh District Rajnandgaon(Chhattisgarh)

2. Harvindar Kaur W/o Sardar Santosh Singh aged 65 year r/o Budhawari para Dongarhgarh District Rajnandgaon Chhattisgarh

VERSUS

RESPONDENTS : State of Chhattisgarh through The Secretary Department of Home D.K.S. Bhawan Raipur Chhattisgarh

2. State of Madhya Pradesh Through The Secretary Department of Home Vallabh Bhawan, Bhopal M.P.

No. 6/02 Received by Shri ... 2.1.02

1. PARTICULARS OF THE PETITIONERS :- As detailed in the cause title above.

2. PARTICULARS OF THE RESPONDENTS:- AS detailed in the cause title above.

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP No. 6 सन् 2002

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	01.5.2002 Shri Alok Bakshi, Counsel for the petitioners. Shri Sanjay K. Agrawal, Deputy Advocate General for the State/Respondents.' Heard. By this writ petition filed under Article 226/227 of the Constitution of India, petitioners pray for issuance of appropriate writ, order or direction to the respondents to pay compensation as awarded by the Delhi High Court in Civil Writ Petition No.1429/96 in case of Smt.Bhajan Kaur Vs. Delhi Administration reported in 1996 III AD (Delhi) 333 for the death of each victim in anti-Sikh Riots occurred in the year 1984 with interest thereon from the date of incident. The petitioners further pray to direct the respondents to give compassionate appointment to the family members of the petitioners.	

(41)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... **सन्** 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

(2) Learned counsel for the petitioners submits that the incident took place in the town of Dongargarh (Chhattisgarh) where Shri Harmit Singh aged about 25 years, son of the petitioner no.1 and the second one was Sardar Santosh Singh, aged about 58 years, who was husband of petitioner no.2. It is submitted that on 15.11.1998 a sum of Rs.20,000/- was given on the spot as immediate relief to both the families and in the year 1998 Rs.30000/- was paid. Thereafter a sum of Rs.50,000/- was given.

So far the petitioners have received the compensation of Rs.1,00,000/- ~~each~~ in all, on account of death of each victim.

Learned counsel for the petitioners submits that the State of Madhya Pradesh in 1998 published a notice saying that if any of the relative or family member of the aggrieved family wants to make report, then he/she may make a report to the Police and pursuant thereto, son of petitioner no.1 made a report to the police vide Annexure P-1 and annexure

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक.....**सन् 200**

-3-

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी र स्ट्रार के अंतिम आदेश

P-2 in case of petitioner no.2. Learned co unsel for the petitioners submits that though the petitione s had made several representations before various a thorities for enhancement of amount of compensation. It is further submitted that petitioners have filed repr sentation for compassionate appointment vide Annexure P-3 and the Collector Rajnandgaon has refused vide letter ated 6.2.2001 (Annexure P-4).

(3) Learned counsel for the petitioner submi s that in Civil Writ Petition No. 1429 of 1996 (Bhajan K ur –v- Delhi Administration) reported in 1996 AIHC 5644, ne Delhi High Court directed payment of Rs.2 lakhs with in rest and also made a general direction that this should pply to other similar cases. He has drawn attention to para 10 of the said Judgment which reads as under:

"Article 21 is the Nation's commitment o bring every individual or group of persons within its prote ive fold. This nation belongs to members of all the commun ies. They are

(43)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

-4-

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजि के अंतिम आदेश	द्वार

equal members of the Indian Society, Equality efore law and equal protection of laws is ensured to them b Article 14 of the Constitution to them. None is to b favoured or discredited. The conduct of any person or gr ıp of persons has to be controlled by the State for the ofty purpose enshrined in Article 21 of the Constitution. I s the duty of the State to create a climate where the cle 'age between members of the society belonging to different fa hs, caste and creed are eradicated. The State must act in ti e so that the precious lives of the people are not destroyed r threatened. Otherwise, article 21 will remain a paper guar ıtee. Time is long overdue for adopting measures that hav more than a hortatory effect in enforcing Article 21 of the Constitution. The State cannot adopt a "do nothing attidue" Like disease prevention, the State must take every precau ion, measure and initiative to prevent terrorem populi of t e magnitude represented by 1984 riots and in the event of a out-break of riot it must act swiftly to curb the same ıd not allow precious time to slip by, as any inaction or p ssivity on its part can result in loss of precious life ar liberty of individuals amounting to violation and negati ı of Article 21 of the Constitution. The State has to enf ce minimum standards of civilized behaviour of its citizens s that the life,

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

liberty, dignity and worth of an individual is protected and preserved and is not jeopardized or endangered. If it is not able to do all that then it cannot escape the liability to pay adequate compensation to the family of the persons killed during riots as his or her life has been extinguished in clear violation of article 21 of the Constitution which mandates that life cannot be taken away except according to the procedure established by law."

(Emphasis supplied)

(4) The matter came for consideration before the Supreme Court in case of *S.S. Ahluwalia –v- Union of India and others reported in AIR 2001 S.C. 1309* wherein it has been noted as under:

"In the wake of assassination of Smt. Indira Gandhi on October 31, 1984 there were several killings of Sikhs in Delhi and other parts of the Country between October 31, 1984 till November 1984 which involved arson, looting and murder. A committee was constituted headed by Justice R.N. Mishra of this Court which made an inquiry and reported that Sikhs killed in those riots were 3874 in Delhi, 127 in Kanpur and

(45)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -6-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

69 in Bokaro. Civil Writ Petition No.1429/1996 titled Bhajan Kaur –v- Delhi Administration (1996 AIHC 564) was filed in the High Court of Delhi for paying compen ation to the dependents of those killed in the riots after the ıssassination of Smt. Indira Gandhi as the State had a duty o protect the life of ;its citizens and the State ought to pay ompensation thereof. The High Court of Delhi by its order lated July 5, 1996 held that in the expanded meaning attrib ted to Article 21 of the Constitution it is the duty of the St te to create a climate where members of the Society belongi g to different faiths, cast and creed live together and, there re, the State has a duty to protect their life, liberty, dignity a d worth of an individual which should not be jeopardized or e ıdangered. If in any circumstance the State is not able to o so, then it cannot escape the liability to pay compensatio to the family of the person killed during riots as his or her life has been extinguished in clear violation of Article 21 of the Constitution. The High Court, therefore, direct d payment of a sum of Rs.2 lakhs with interest and also m de a general direction that this direction should apply to similar cases also. Thereafter, this writ petition has been fi d seeking to extend the benefit of the Judgment in Bhajan aur V. Delhi Administration (supra) to the entire country a d for certain

(46)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक.....**सन् 200**

-7-

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी र द्वार के अंतिम आदेश

other reliefs. It is brought to our notice that the number of persons killed in each of the State is as under:

Nos. Killed	State
3874	Delhi
1	Rajasthan
3	Orissa
106	Haryana
2	Himachal radesh
120	Bihar
98	M.P.
260	Uttar Prad sh
9	Maharasht a
4473	

While noting the aforesaid contents, the Supreme ourt has held as under:

"Certain claims have been made in para 13.3 c this writ petition setting out certain facts which need to b verified.

(17)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक.....**सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -8-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

After this petition was filed notices were issu l to the Government of different States and they filed res onses in each one of those cases stating the steps that l ave been taken by them in cases where there had been deat or other kinds of violence resulting in injuries or loss of pro rty. But in the nature of the circumstances of the case, t is very difficult for us to extend the decision of thek Hig Court of Delhi in Bhajan Kaur (supra) to all the States witho t making a detailed examination of the circumstances arisi in each case. Such examination cannot be done by us. T refore it would be appropriate for us to direct the High Court of Delhi, Rajasthan, Orissa, Punjab and Haryana, Himachal Pradesh, Patna, Madhya Pradesh Allahabad and Bombay in t e States of Delhi, Rajasthan, Orissa, Haryana, Himachal Pradesh, Bihar, Madhya Pradesh, Uttar Pradesh, Maharashtr and Goa to deal with the matter in respect of the allegati is made herein in respect of the State falling in its juris ction by treating this writ petition as a petition filed in t at High Court. These proceedings, therefore, shall stand tr nsferred to the respective High Courts. A copy of the peti on with Annexures and response of the respective State Gove nmentk shall be sent to the High Court for appropriate actio ."

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक.....**सन्** 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -9-	कार्यालयीन मामलों में डि के अंतिम आदे	रजिस्ट्रार

(5) A plain reading of the said order shows that the Supreme Court while considering the judgment of elhi High Court passed in case of Bhajan Kaur –v- Delhi Adm istration (supra) has noted down that the High Court of D hi by its order dated July 5th 1996 held that in the expande meaning attributed to Article 21 of the Constitution, it is t e duty of the State to create a climate where members of t e Society belonging to different faiths, caste and creed liv together and therefore the State has the duty to protect heir life, liberty, dignity and worth of an individual which s ould not be jeopardized or endangered and if in such circu astances the State is unable to do so, then it cannot escape t e liability to pay compensation to the families of the vict as killed during riots as his or her life has been extinguishe in clear violation of Article 21 of the Constitution. Therefor the High Court directed payment of a sum of Rs.2 lakhs wit interest. While noting so, the Supreme Court has directed he High

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक.....सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -10-	कार्यालयीन मामलों में डिप्टी र[illegible]स्ट्रार के अंतिम आदेश
	Courts concerned to deal with the matter in respec of the allegations made therein, in respect of the State falli g in its jurisdiction by treating that writ petition as a petitior filed in that High Court and those proceedings shal stand transferred to the respective High Courts." (6) At this stage, learned counsel for the pe tioners submits that the State of Madhya Pradesh has b en re-organised and on date of decision of Supreme Cou dated 16.3.2001 rendered in case of S.S Ahluwalia (sup a), the State of Chhattisgarh was already formed and so fa as the victims of the present case is concerned, they were res ding in State of Chhattisgarh, therefore, petitioners p ay for extending the benefit of the judgment in Bhajan Kaur supra) to the State of Chhattisgarh as it is a welfare State. (7) From the documents on record, it is clear that Harmit Singh and Santosh Singh both had died in Anti-Sik Riots and certain amount was paid to their dependents.	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक.....**सन्** 200

-11-

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी के अंतिम आदेश	रजिस्ट्रार
	(8) Having considered the facts and circumstanc s of the case and material available on record and tak ıg into consideration the Judgment of Delhi High Court p ssed in case of Bhajan Kaur (supra) and the decision of upreme Court in case of S.S. Ahluwalia –v- Union (supra), in the opinion of this Court, it is just and proper that a sum of Rs.2,00,000/- as compensation be awarded from th date of incident with interest @ 9% per month after adjus ing the amount already paid to the dependents, within on month from the date of receipt/production of a copy of this judgment. (8) So far as the other reliefs regarding con ɔensate appointment and other claims are concerned, petitic ıers are entitled to make a representation before the Co ıpetent Authority and in case such a representation is f ed, the competent authority shall consider the same/and pass a		

(S1)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... **सन्** 200

-12-

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	reasoned order within 3 months from the date of receipt of representation. (8) It is made clear that in case the order passed by the respondents are adverse to the interest of the petitioners, then they are at liberty to apply afresh. (9) The State would also submit report that after death of victims, whether any FIR was filed and whether any culprits were brought to the book in this incident. The report to that effect shall be filed within 3 months before the Registrar General for perusal in chamber. This petition is partly allowed with the liberty/direction aforesaid. Certified Photocopy. Sd/- Fakhruddin Judge	

GRPRJ—FS/78 —5/200(—50,000.